

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

4 THE UNITED STATES OF AMERICA,)
5 ex rel.)
6 JULIE LONG,) Civil Action
7)
8 Plaintiffs) No. 16-12182-FDS
9)
vs.)
10)
11 JANSSEN BIOTECH, INC.,)
12 Defendant)

11 BEFORE: CHIEF JUDGE F. DENNIS SAYLOR, IV

TELEPHONE STATUS CONFERENCE

16 John Joseph Moakley United States Courthouse
17 1 Courthouse Way
Boston, MA 02210

February 5, 2021
3:00 p.m.

1 APPEARANCES VIA TELEPHONE:

2 For The Relators:

3 Cohen Milstein Sellers & Toll PLLC, by CASEY M. PRESTON,
4 ESQ., 1717 Arch Street, Suite 3610, Philadelphia, Pennsylvania
19103;

5 Shapiro & Teitelbaum LLP, by JONATHAN SHAPIRO, ESQ.,
6 55 Union Street, Suite 500, 4th Floor
Boston, Massachusetts 02108;

7 For the Defendant:

8 Covington & Burling LLP, by ETHAN M. POSNER, ESQ.,
9 SARAH TREMONT, ATTORNEY, and SHANYA DINGLE, ATTORNEY,
850 Tenth Street, NW, Washington, D.C. 20001-4956.

10 ALSO PRESENT:

11 United States Attorney's Office, DAVID J. DERUSHA,
12 ASSISTANT UNITED STATES ATTORNEY, 1 Courthouse Way,
Suite 9200, Boston, Massachusetts 02210.

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PROCEEDINGS

2 THE CLERK: Court is now in session in the matter of
3 United States of America vs. Janssen Biotech, Civil Action
4 Number 16-12182.

5 Participants are reminded that photographing,
6 recording or rebroadcasting of this hearing is prohibited and
7 may result in sanctions.

8 Would counsel please identify themselves for the
9 record, beginning with counsel for the United States.

03:00PM 10 MR. DERUSHA: I'm here, David Derusha on behalf of the
11 United States but not as a party, only as an observer.

12 THE COURT: Good afternoon.

13 MR. SHAPIRO: This is Jonathan Shapiro, counsel for
14 the relator.

15 THE COURT: All right. Good afternoon.

16 MR. POSNER: For the defendant, your Honor, it's
17 Ethan Posner from Covington & Burling, and I'm joined by my
18 colleagues, Sarah Tremont and Shanya Dingle.

19 THE COURT: Good afternoon. All right. This is a
03:01PM 20 status conference in this case. I think I'm just checking in
21 midstream in discovery, and where do things stand?

22 Mr. Shapiro.

23 MR. SHAPIRO: I think Mr. Preston will respond to
24 that.

25 THE COURT: Okay. Mr. Preston.

1 MR. PRESTON: Just to give you a general summary, the
2 parties have served their discovery requests and
3 interrogatories in accordance with your Honor's schedule. The
4 parties have also issued subpoenas duces tecum to certain third
5 parties, and the parties are currently working on trying to
6 reach an agreement on an ESI protocol as well as stipulated
7 protective order in order to deal with any confidential
8 documents and information.

9 Plaintiff's responses to Janssen's document requests
03:02PM 10 are due on February 22nd. The plaintiff will be producing
11 responsive documents at that time. Janssen Biotech made its
12 first production of what will be a lone production is our
13 understanding of a substantial volume of documents and
14 information. That occurred late last week.

15 The parties have met and conferred about the
16 production of documents as a preparation for depositions, your
17 Honor, and we are scheduled to meet again next week to continue
18 those discussions in order to also agree upon a group of
19 document custodians and search terms as well as a production
03:03PM 20 schedule for the rolling productions.

21 I think, you know, your Honor, based on our
22 discussions, the parties are in agreement that despite our
23 diligence in issuing and responding to discovery requests and
24 gathering responsive documents, just given the volume of
25 documents in this case, we're going to need some additional

1 time before we're prepared to move to the next stage of this
2 first phase of discovery, which is taking depositions.

3 And, you know, as your Honor knows, currently the
4 deadline for completion of Phase I depositions is March 22nd,
5 but, you know, the parties would request an extension of that
6 deadline, and if it's okay with your Honor, the parties intend
7 to work out a schedule for the document production, and, you
8 know, this sort of initial Phase I of the discovery process and
9 submit a proposed schedule to the Court, which would include a
03:04PM 10 new proposed deadline for depositions, if that would be
11 acceptable to your Honor.

12 THE COURT: Okay. Mr. Posner.

13 MR. POSNER: I think relator's counsel accurately
14 summarized it. We've made our first production. Both sides
15 are working away. We do need to sit down and talk about the
16 mechanics of the remaining productions, and, you know, we
17 agree, I think it makes sense for the parties to mutually talk
18 about a revised schedule, and I have every expectation we'll be
19 able to amicably do that and jointly do that.

03:05PM 20 THE COURT: All right. Let's do this. First, as to
21 ESI and the protective order, let's get that, you know, taken
22 care of, either resolved by agreement, or, if not, if there's a
23 disagreement, let's tee that up and get that out of the way so
24 that that's not slowing anything up.

25 As to the schedule, what I will do is this. I will

1 have the clerk tack 30 days onto each of the scheduling events.
2 That will be without prejudice to your seeking additional time,
3 but I will want to hear what you have to say, you know, what
4 there is to be accomplished and in what time frame, you know,
5 what you need to do to make that all work, but I'll just issue
6 a new schedule where all the dates are bumped out 30 days.

7 Because of weekends and holidays and so forth, it may
8 not wind up perfectly within 30 days, but let's do that, and if
9 you think you need more, I'll want to know the specifics, how
03:06PM 10 much and why and all of that, and let's keep the March 23rd
11 status conference in the calendar, I think it's March 23rd,
12 isn't it, so I can check in with you at that point.

13 Okay. Anything else we need to talk about while I
14 have you here? Mr. Preston.

15 MR. PRESTON: I don't believe so, your Honor.

16 THE COURT: Mr. Posner.

17 MR. POSNER: Nothing from us, your Honor.

18 THE COURT: One last thing. This telephone status
03:07PM 19 conference marks Ms. Bono's last court event as my clerk. She
20 has accepted a promotion, it's a promotion on paper, but she's
21 moving to Cincinnati, so there's some question. It's hard to
22 picture anything would be better than working for me, but if
23 such a thing is possible, she'll be doing it in Cincinnati, so
24 I wanted to mark that occasion, and I'll say for the record how
25 much I'll miss her, and I think counsel can expect at least

1 some small level of chaos here going forward until a new clerk
2 is in place and we find our footing again. But I wanted to
3 note that for the record. Thank you, all.

4 MR. PRESTON: Good luck, Christine.

5 MR. POSNER: Yes, congratulations.

6 THE COURT: She's out from under my boot heel, but I'm
7 sure she's looking forward it.

8 THE CLERK: Say hi if you're ever in the Southern
9 District of Ohio.

03:08PM 10 THE COURT: Thanks, everyone, have a good weekend,
11 and, again, let's get the CSI and protective order issued and
12 out of the way so we can keep moving.

13 MR. PRESTON: Thanks.

14 MR. POSNER: Thank you.

15 (Whereupon, the hearing was adjourned at
16 3:08 p.m.)

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1 C E R T I F I C A T E
23 UNITED STATES DISTRICT COURT)
4 DISTRICT OF MASSACHUSETTS) ss.
5 CITY OF BOSTON)6 I do hereby certify that the foregoing transcript,
7 Pages 1 through 8 inclusive, was recorded by me
8 stenographically at the time and place aforesaid in Civil
9 Action No. 16-12182-FDS, THE UNITED STATES OF AMERICA ex rel.
10 JULIE LONG vs. JANSSEN BIOTECH, INC., and thereafter by me
11 reduced to typewriting and is a true and accurate record of the
12 proceedings.

13 Dated September 20, 2023.

14 s/s Valerie A. O'Hara

15 VALERIE A. O'HARA
16 OFFICIAL COURT REPORTER
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